

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DAVID KOCHER,

Plaintiff,

v.

CAROLYN COLVIN, Acting Commissioner
of Social Security,

Defendant.

Case No. 3:14-cv-00608-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is Magistrate Judge Valerie P. Cooke's Report and Recommendation ("R&R") (dkt. no. 15), regarding Plaintiff David Kocher's motion for reversal and/or remand (dkt. no. 11) and Defendant Commissioner's cross-motion to Affirm (dkt. no. 13). Judge Cooke entered the R&R on September 29, 2015. Plaintiff was given until October 16, 2015, to file any objections. (Dkt. no. 15.) To date, no objection has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a


1 magistrate judge's report and recommendation where no objections have been filed. See
2 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
3 of review employed by the district court when reviewing a report and recommendation to
4 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
5 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
6 view that district courts are not required to review "any issue that is not the subject of an
7 objection"). Thus, if there is no objection to a magistrate judge's recommendation, then
8 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
9 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
10 which no objection was filed).

11 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in
12 order to determine whether to adopt the R&R. The R&R finds that the ALJ did not err in
13 her assessment of plaintiff's impairments or residual functional capacity, or in discounting
14 plaintiff's subjective pain testimony, and recommends that plaintiff's motion (dkt. no. 11) be
15 denied and that defendant's cross-motion (dkt. no. 13) be granted. Upon review of the R&R
16 and the records in this case, the Court finds good cause to adopt the R&R in full.

17 It is hereby ordered that the R&R (dkt. no. 15) is accepted and adopted. Plaintiff's
18 motion for reversal and/or remand (dkt. no. 11) is denied and the Commissioner's cross-
19 motion to affirm (dkt. no. 13) is granted.

20 It is further ordered that the Clerk enter judgment and close this case.

21 DATED THIS 9th day of November 2015.

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24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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